

Seattle Police Department PROPOSED DISCIPLINARY ACTION REPORT		FILE NUMBER OPA 18-1006 OPA 19-0045	
RANK/TITLE Former Lieutenant	NAME Brendan Kolding	SERIAL NUMBER 7494	UNIT N/A

ALLEGATIONS LIKELY TO BE SUSTAINED:

- Violation of Seattle Police Department Policy & Procedure Manual Sections:**
- **5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy**
 - **5.001 - Standards and Duties 10. Employees Shall Strive to be Professional**
 - **5.001 - Standards and Duties 11. Employees Shall Be Truthful and Complete in All Communication**
 - **5.001 - Standards and Duties 14. Retaliation is prohibited**
 - **5.001 - Standards and Duties 15. Employees Obey any Lawful Order Issued by a Superior Officer**

Specification:

In early October 2018, an officer received a large envelope at his work assignment. The envelope was addressed to the officer, referred to him as “SJC Receptionist,” and contained a job posting for the Department’s Telephone Reporting Unit (TRU). The job posting had previously been sent out via a Department-wide email, but the copy included in the envelope concealed the email recipient’s name. The officer who received the envelope complained and expressed a belief that you sent it to him. The officer explained that he believed you were the sender because he had previously complained that you had engaged in a “pattern of harassment” towards him.

Prior to the envelope being sent to the officer, you had filed two OPA complaints against the officer and he had filed one against you. Each of the complaints was referred by OPA back to the chain of command for frontline investigations. At the conclusion of the frontline investigation of the officer’s complaint that you were harassing and bullying him, your supervisor counseled you about his expectations. These expectations were documented in a PAS entry that set forth several expectations, including that you: “Treat others professionally and with respect at all times”; “Focus[es] supervision on those within his span of control...”; “Be equitable in addressing similar conduct issues involving personnel he is supervising, and consider perceptions of his supervisory actions”; and “Make[s] sure statements and documents are accurate.” The PAS entry also directed you to exhaust non-disciplinary remedies for performance issues prior to making an OPA referral, to counsel subordinate employees in private, and to “[s]et the example for professionalism in the workplace.”

After you received the order set forth in the PAS entry described above, you left the unit. You were later promoted to Lieutenant and were assigned to a Patrol position in the North Precinct. At the time when the anonymous envelope was sent to the officer, you and he had not worked in the same unit for over a year. During your interview with OPA, you stated that you believed that your interactions with and complaints from the officer resulted in your being skipped over for promotion for a period of time.

During OPA’s investigation, OPA had the envelope subjected to a fingerprint analysis. OPA was informed by an employee of the Latent Print Unit (LPU) that your latent prints were identified on the underside of the tape that had been used on the envelope. Given this discovery, OPA identified you as a named employee in its

investigation and sent you the requisite contractual notices. In response to one of those notices, you sent an email to the assigned OPA investigator, writing: "The allegation that I sent [the officer] a letter suggesting he apply to TRU is frivolous and illogical. I have nothing to gain by him working at TRU or leaving APRS. I would like to request an expedited review."

The day that you received notice of the OPA investigation against you, you called OPA to schedule your interview. Approximately thirty minutes later, the LPU received a call on its main line from a phone number with a Seattle area code. The male caller, who did not identify himself, asked the following: "Hey, for OPA investigations do you guys do a latent print evaluation?" The employee who answered the phone told you that they do, "in certain occasions." The caller then hung up the phone without saying anything else.

Seattle IT obtained records of the incoming calls received by the LPU during the timeframe that the call was made. There was one call that came in from a Seattle phone number at that time and lasted fifty-four seconds. During your interview with OPA, you confirmed that the phone number is your personal cell phone.

During your interview with OPA, you denied sending the anonymous envelope to the officer. When asked how your latent prints were on the envelope, you pointed to your prior experience of sharing an office with the officer and suggested that your fingerprints may have been on tape that the officer had access to.

After your interview, OPA opened a separate investigation into whether you lied to OPA. Shortly thereafter, you resigned from the Department and declined to be interviewed as part of the dishonesty investigation.

The cumulative evidence supports the finding that you sent the envelope to the officer and subsequently lied about doing so to OPA.

Policies at Issue:

Department Policy 5.001 (10) requires that employees "strive to be professional at all times." The policy further instructs that "employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers." The policy also states: "Any time employees represent the Department or identify themselves as police officers or Department employees, they will not use profanity directed as an insult or any language that is derogatory, contemptuous, or disrespectful toward any person." Lastly, the policy instructs Department employees to "avoid unnecessary escalation of events even if those events do not end in reportable uses of force."

You printed out a job posting from a Department email, anonymized it, wrote a disparaging message on the posting, created an insulting address block, and then taped the address to the envelope and taped the envelope shut. You then sent the envelope through Department mail to the officer. You did so in order to bully and retaliate against the officer. Your actions appear to be part of an ongoing course of conduct, which included making repeated complaints about the officer without basis. These actions were unprofessional.

You were also unprofessional when, instead of accepting responsibility for your actions, you sought to mislead investigators and interfere in their investigation. You sent an email to OPA denying that you engaged in the conduct alleged. You also called the LPU to determine whether they might assist with an OPA investigation. You took repeated actions that served to undermine public trust in you, other officers, and the Department.

Department Policy 5.001 (14) prohibits employees from retaliating against a person who engage in activities including, but not limited to, "oppos[ing] any practice that is reasonably believed to be unlawful or in violation of Department policy" or "who otherwise engages in lawful behavior." Retaliatory acts are defined broadly under SPD's policy and include "discouragement, intimidation, coercion, or adverse action against any person. At your OPA interview, you expressed a belief that your interactions with the officer resulted in your being passed over for promotion. He had complained to OPA that you had harassed and bullied him, resulting in your being counseled by your Captain. You acknowledged that, had you anonymously sent the envelope and the insulting message therein to the officer, it would have constituted retaliation under SPD policy. You acted contrary to the non-retaliation policy when you sent the envelope to the officer.

Department Policy 5.001 (15) requires that employees obey any lawful order issued by a superior officer. The failure to do so constitutes insubordination. You received a PAS entry and counseling from a supervisor in which you were told to treat others – most notably the officer to whom you sent the envelope – with respect and professionalism. When you sent the anonymous envelope to the officer, you acted contrary to a lawful order given by a supervisor.

Department Policy 5.001 (2) requires that employees adhere to laws, City policy, and Department policy. Your actions, as set forth above, violated multiple SPD policies, as well City of Seattle Personnel Rule 1.13.

Department Policy 5.001 (11) requires that employees are truthful and complete in all communication. Dishonesty is further defined in the collective bargaining agreement between the City and Seattle Police Management Association: "Dishonesty is defined as intentionally providing false information, which the officer knows to be false, or intentionally providing incomplete responses to specific questions, regarding facts that are material to the investigation."

You made materially false statements during your OPA interview. When OPA attempted to investigate whether you provided the envelope to the officer, you denied doing so. You stated that you had never seen the envelope in question. You also lied during your interview when asked whether you called the LPU about this case. You denied doing so but had no explanation for the call that came from your personal cell phone number the same day you scheduled your interview with OPA. Further, you lied to OPA when you contacted OPA by email and asserted that the allegations against you were frivolous.

Recommended Discipline:

In determining the appropriate level of discipline to recommend, the disciplinary committee notes the seriousness of the misconduct involved here. In addition, at the time this conduct occurred, you served as a lieutenant, putting you in a leadership and management role with considerable power over those of lower rank. Were you still a Department employee, the Disciplinary Committee would recommend that your employment be terminated. If the Police Chief ultimately permitted you to continue employment, we would have recommended that she exercise her discretionary authority to return you to the position of a police sergeant. You were serving a probationary period in the Lieutenant position at the time you resigned, and we do not believe that your actions were compatible with a successful promotion to the rank of lieutenant.

PROPOSED Discipline Range *

If you were still employed with the Department, the recommendation would be termination of employment.

DATE ISSUED:

May 16, 2019

*The final disciplinary decision rests with the Chief of Police or the Chief's designee. The proposed range of discipline options is a recommendation from the disciplinary committee to the Chief of Police.